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Everytown for Gun Safety,
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and Brady Center to Prevent Gun Violence*

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

NATIONAL SHOOTING SPORTS
FOUNDATION, INC.,

Plaintiff,

v.

ROBERT W. FERSUGON,
ATTORNEY GENERAL OF THE
STATE OF WASHINGTON,

Defendant.

CASE NO. 2:23-cv-00113-MKD

UNOPPOSED MOTION FOR LEAVE
TO FILE AMICUS CURIAE BRIEF

Noted for Consideration:
July 7, 2023

With consent of the Parties, Everytown for Gun Safety Support Fund (“Everytown”), Brady Center to Prevent Gun Violence (“Brady”), and Giffords Law Center to Prevent Gun Violence (“Giffords”) (collectively “Amici”) hereby respectfully move for leave to file an amicus curiae brief in support of Defendant Robert W. Ferguson, Attorney General of the State of Washington. The proposed

1 amicus brief is attached hereto as **Exhibit A**. A proposed order is also submitted
 2 herewith.

3 Amici are gun violence prevention groups with extensive experience and
 4 interest in the legal and factual issues presented by Plaintiff's complaint and
 5 motion for preliminary injunction. They jointly submit the proposed amicus brief
 6 to provide important context and analysis concerning certain factual and legal
 7 issues presented by the complaint and motion.

8 **I. LEGAL STANDARD**

9 It is within this Court's "broad discretion" to permit the filing of an amicus
 10 brief. *Jordan v. Nationstar Mortg., LLC*, 2017 WL 11689000, at *2 (E.D. Wash.
 11 Jan. 26, 2017); *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982), *abrogated*
 12 *on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995). In deciding whether
 13 to grant leave to file, courts should consider whether the briefing "assist[s] in a
 14 case of general public interest, supplement[s] the efforts of counsel, and draw[s]
 15 the court's attention to law that escaped consideration." *Miller-Wohl Co., Inc. v.*
 16 *Comm'r of Labor & Indus. Mont.*, 694 F.2d 203, 204 (9th Cir. 1982). "An amicus
 17 brief should normally be allowed when. . . the amicus has an interest in some other
 18 case that may be affected by the decision in the present case, or when the amicus
 19 has unique information or perspective that can help the court beyond the help that
 20 the lawyers for the parties are able to provide." *Cnty. Ass'n for Restoration of*

1 *Env't (CARE) v. DeRuyter Bros. Dairy*, 54 F. Supp. 2d 974, 975 (E.D. Wash.
2 1999).

3 For the reasons explained below, Amici satisfy these criteria.

4 **II. ARGUMENT**

5 **A. Amici's expertise provides unique insights and perspectives on 6 this case of general public interest.**

7 This case concerns an issue of utmost national importance—gun violence
8 and its prevention. Given Amici's decades of experience working to prevent gun
9 violence, they bring both strong interest and deep expertise to this challenge to
10 Substitute Senate Bill 5078 ("SSB 5078"). Everytown, Brady, and Giffords are
11 national non-profit gun violence prevention organizations that advocate for gun
12 violence prevention laws and are dedicated to researching, writing, enacting, and
13 defending such laws. Amici also have extensive experience litigating cases
14 involving the Second Amendment and the Protection of Lawful Commerce in
15 Arms Act ("PLCAA"), 15 U.S.C. § 7901 *et seq.*

16 Brady, a leader in gun violence prevention for over 40 years, is one of the
17 nation's oldest and largest nonpartisan, non-profit organizations dedicated to gun
18 violence prevention. Brady provides education, research, and direct legal
19 advocacy to reduce gun deaths and injuries, including filing amicus briefs and
20 representing victims and communities in impact litigation.

1 Everytown is the education, research, and litigation arm of Everytown for
2 Gun Safety, the largest gun violence prevention organization in the country.
3 Everytown for Gun Safety was founded in 2014 as the combined efforts of Mayors
4 Against Illegal Guns, a national, bipartisan coalition of mayors combatting illegal
5 guns and gun trafficking, and Moms Demand Action for Gun Sense in America, an
6 organization formed after the Sandy Hook massacre.

7 Giffords has been fighting for a safer America for 30 years, serving
8 lawmakers, advocates, legal professionals, gun violence survivors, and others who
9 seek to reduce gun violence and improve the safety of their communities. Led by
10 former Congresswoman Gabrielle Giffords, Giffords researches, drafts, and
11 defends the laws, policies, and programs proven to save lives from gun violence.

12 All three Amici conduct research on the causes of gun violence, the role of
13 the gun industry in contributing to such violence, and the nature and scope of the
14 gun industry's protection under the PLCAA. They thus bring specialized interest
15 and experience regarding both the factual and legal issues presented by this case,
16 and, in particular, Plaintiff's motion for a preliminary injunction.

17 **B. Amici's submission will supplement the efforts of the Parties.**

18 Through their work in Washington and around the country, Amici strive to
19 hold gun industry actors accountable for reckless, unlawful, and irresponsible
20 business practices. Amici seek to share with the Court their insight and on-the-

1 ground experience about how the behavior of gun industry actors themselves may
2 give rise to a public nuisance and what readily available tools the gun industry may
3 employ to reduce the nuisance and the magnitude of the gun violence problem.

4 Amici’s proposed brief provides a different perspective and additional
5 information not included in the Parties’ briefing. Drawing on their first-hand
6 experience litigating cases against gun industry actors and their experience
7 researching causes of gun violence, Amici can explain the interplay between gun
8 industry procedures and gun violence. Amici’s proposed brief provides context
9 and analysis to address three issues: (i) the liability imposed by SSB 5078 on
10 reckless gun industry actors themselves, (ii) the gun industry’s ability to
11 understand and apply SSB 5078’s reasonableness standard, and (iii) the
12 inapplicability of the Second Amendment. The proposed brief addresses issues
13 raised by the National Shooting Sports Foundation (“NSSF”) in its complaint and
14 briefing. Amici’s proposed brief offers information the Court may find useful as it
15 considers the issues raised in the Parties’ briefs.

16 **C. Amici’s motion will not delay the Court’s resolution of the**
17 **pending matter.**

18 The Parties to the litigation have consented to the relief requested by this
19 motion. Furthermore, Amici’s proposed brief is timely. It is filed six days after
20 Defendant’s briefs—within the time frame set forth in the relevant federal

1 appellate rule. *See* Fed. R. App. P. 29(a)(6) (“An amicus curiae must file its brief
2 ... no later than 7 days after the principal brief of the party being supported is
3 filed.”). Given this timely filing, participation of Amici will not delay the briefing
4 or argument in this case.

5 III. CONCLUSION

6 For these reasons, Amici respectfully request that the Court grant this
7 motion for leave to file their amicus brief and accept for filing the accompanying
8 amicus curiae brief.

9 DATED this 7th day of June, 2023.

10 Respectfully Submitted,

11 SUMMIT LAW GROUP, PLLC

12 *Attorneys for Amicus Curiae Everytown*
13 *for Gun Safety, Giffords Law Center to*
14 *Prevent Gun Violence, And Brady Center*
to Prevent Gun Violence

15 By: s/ Jessica L. Goldman

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